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April 10, 2020

VIA ECF

Honorable Jesse M. Furman
United States District Court
Southern District of New York
40 Centre Street, Room 2202
New York, New York 10007

Re: *Yovanny Dominguez v. Big Apple Archery Lanes, Inc.*
Civil Action No.: 1-19-cv-11936 (JMF)
RR File No.: 4998-1

Dear Honorable Sir:

This office represents defendant, Big Apple Archery Lanes, Inc. in the abovementioned matter. This letter motion requests an extension of time for the defendant to respond to the complaint until May 14, 2020 and adjournment of the initial pretrial conference, presently scheduled for April 22, 2020 for some time, at the Court's convenience, thereafter.

This putative class action alleges that Defendant, Big Apple Archery Inc., (a neighborhood archery facility) operates a website that is inaccessible to blind people under the American with Disabilities Act ("ADA"). Big Apple Archery denies that the plaintiff has standing to pursue the claim, that the ADA applies to it, and that its website is not reasonably accessible. Nevertheless, Big Apple has sought to resolve plaintiff's suit prior to responding to the complaint in hopes of avoiding the cost and burden of litigating the matter.

By Order dated February 28, 2020, this Court granted Big Apple Archery's application for an extension of time to respond to the putative class action complaint until April 14, 2020. *See* [ECF No. 10](#). In the Order, the Court "reminded" the parties that it had previously ordered that the parties participate in mediation at least two weeks prior to the pretrial conference scheduled for April 22, 2020 ([ECF No. 5](#)).

We have repeatedly attempted to engage the plaintiff's counsel to explore resolution of the matter. Initially, plaintiff engaged in some discussion, but has been resolutely uncommunicative for the past several weeks. Without disclosing the specific content of these settlement discussions, we have generally

provided information regarding Big Apple Archery, Inc., its defenses to the alleged claim, and financial information requested by plaintiff's counsel concerning Big Apple Archery's insolvency, which has been exacerbated by its forced closing due to the corona virus crisis. Most recently, we emailed plaintiff's counsel on March 27, 2020, April 2, 2020, April 3, 2020, and April 8, 2020, without response. At the same time, the Southern District's Mediation Office sent two emails, dated April 2, 2020 and April 8, 2020, requesting that the parties contact them to schedule mediation as ordered by this Court. Plaintiff has not responded to either the Mediation Office or us. Accordingly, we have advised the Mediation Office that, while we are available to participate in the Court annexed mediation, we cannot do so without plaintiff's participation. *See* Email attached.

Based on the foregoing, it is respectfully requested that Big Apple Archery's time to respond to the complaint be extended for 30 days or to May 14, 2020. Unfortunately, due to our reliance on plaintiff's promise that there would be a substantive response to our resolution efforts, Big Apple is now left with inadequate time to prepare its response to the putative class action complaint. Our effort to resolve the case before significant cost and inconvenience was incurred has been stymied by plaintiff's lack of communication and is now made all the more challenging by the corona virus health crisis and the Passover and Easter holiday season that is now upon us.

This is the second application made by the defendant for an extension of time to respond to the complaint. Because the plaintiff has not responded to either us or the Mediation Office's emails, we cannot say whether plaintiff consents to the extension or not.

Wherefore, it is respectfully requested that the within application be granted and the Court order that 1) Defendant's time to respond to the Complaint be extended through and including May 14, 2020; 2) the pretrial conference, presently scheduled for April 22, 2020, be adjourned to such date after May 14, 2020 as the Court may direct; and 3) for whatever further or different relief that the Court may deem reasonable and appropriate.

Application GRANTED. The time for Defendant to answer or otherwise respond to the Complaint is EXTENDED to May 14, 2020. The initial pretrial conference, previously scheduled for April 22, 2020, is ADJOURNED to **June 3, 2020 at 3:30 p.m.** Plaintiff shall file a letter within two weeks confirming that he intends to prosecute this action; failure to do so may result in the case being dismissed for failure to prosecute.

The Clerk of Court is directed to terminate ECF No. 11.

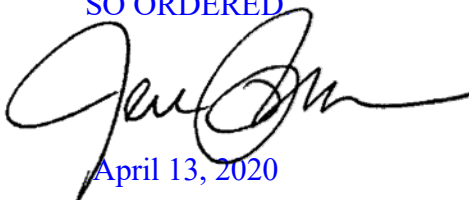
Respectfully submitted,

RIVKIN RADLER LLP
Attorneys for Defendant
Big Apple Archery Inc.

Shari Claire Lewis

By: Shari Claire Lewis

SO ORDERED



April 13, 2020